



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 3, 1998

Ms. Jennifer W. Jacobs  
Bracewell & Patterson, L.L.P.  
711 Louisiana Street, Suite 2900  
Houston, Texas 77002-2781

OR98-2581

Dear Ms. Jacobs:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 119330.

The Spring Independent School District (the "district"), which you represent, received a request for information relating to the settlement of the "Curry lawsuit." You claim that the terms of the proposed settlement offer are excepted from disclosure under sections 552.103 and 552.114 of the Government Code. We have considered the exceptions you claim and reviewed the settlement offer.<sup>1</sup>

You contend that the settlement offer is excepted from disclosure as a "student record." In Open Records Decision No. 634 (1995), this office concluded that (1) an educational agency or institution may withhold from public disclosure information that is protected by the Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g, and excepted from required public disclosure by sections 552.026 and 552.101 of the Government Code without the necessity of requesting an attorney general decision as to those exceptions, and (2) an educational agency or institution that is state-funded may withhold from public disclosure information that is excepted from required public disclosure by section 552.114 of the Government Code as a "student record," insofar as the "student record" is protected by FERPA, without the necessity of requesting an attorney general decision as to that exception. In this instance, however, you have submitted the settlement

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<sup>1</sup>Because you have not submitted the other requested item, we presume that this information has been released.

offer to this office for consideration. Therefore, we will consider whether these documents are excepted from disclosure under sections 552.026 and 552.114 of the Government Code.

“Education records” under FERPA are records that

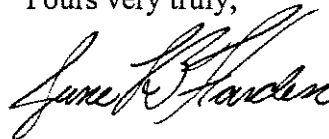
(i) contain information directly related to a student; and

(ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

20 U.S.C. § 1232g(a)(4)(A). *See also* Open Records Decision Nos. 462 (1987), 447 (1986). The submitted documents pertain to a lawsuit involving a student and the district. The submitted documents are education records under FERPA, and, therefore, must be withheld from disclosure to the extent “reasonable and necessary to avoid personally identifying a particular student.” *See* Open Records Decision Nos. 539 (1990), 332 (1982), 206 (1978). In this instance, the district must withhold the settlement offer from disclosure in its entirety in order to satisfy the requirements of FERPA.

Because we are able to make a determination under section 552.114, we need not address your section 552.103 claim. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/ch

Ref.: ID# 119330

Enclosures: Submitted documents

cc: Mr. Mark Jones  
1960 Sun Newspaper  
3730 West FM 1960  
Houston, Texas 77068  
(w/o enclosures)